



PATENT

Case Docket No. OAKLY.929C2

Date: October 25, 2001

Page 1

In re application of : James H. Jannard
App. No. : 09/711,433
Filed : November 13, 2000
For : CONTOURED METAL
EYEGLASS FRAMES
Examiner : Huy Mai
Art Unit : 2873

I hereby certify that this correspondence and all marked attachments are being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on

October 25, 2001

(Date)

Gerard von Hoffmann, Reg. No. 33,043

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

Sir:

Transmitted herewith is an amendment in the above-identified application.

(X) An extension of time to respond for three (3) months is hereby requested.

Time Extension Fee:

(X) three months (\$920 large entity)

The fee has been calculated as shown below:

CLAIMS AS FILED						
	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE	ADDITIONAL FEE
Total Claims	33	—	33	= 0 ×	\$18	= \$0
Independent Claims	3	—	3	= 0 ×	\$84	= \$0
Time Extension Fee						\$920
TOTAL ADDITIONAL FEE FOR THIS AMENDMENT						\$920

- (X) Return prepaid postcard.
(X) A check in the amount of \$920 is enclosed.
(X) Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

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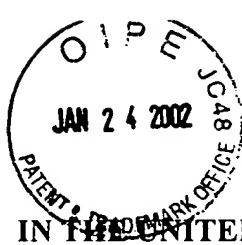
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Gerard von Hoffmann
Registration No. 33,043
Attorney of Record

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : James H. Jannard) Group Art Unit 2873
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 Appl. No. : 09/711,433)
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 Filed : November 13, 2000)
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 For : CONTOURED METAL)
 EYEGLOSS FRAMES)
)
 Examiner : H. Mai

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AMENDMENT

Assistant Commissioner for Patents
 Washington, D.C. 20231

Dear Sir:

In response to the Official Action mailed April 25, 2001, please amend the identified application as follows:

IN THE CLAIMS

Please amend the Claims as follows:

1. (Amended) Biased dual lens eyeglasses, comprising:

first and second nonwire metal orbitals, each orbital having a medial zone and a lateral zone; and

a bridge connected to the medial zone on each orbital;

wherein the first orbital is moveable with respect to the second orbital, throughout a range of motion of no more than about ± 15 degrees with respect to the bridge.

17. (Amended) A nonwire biased eyeglass frame, comprising:

a left orbital and a right orbital for supporting a left lens and a right lens, respectively, each of the left and right orbitals having a first transverse cross sectional area at a first point and a second transverse cross sectional area at a second point;

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a bridge connecting the right and left orbitals;
wherein the right and left orbitals are movable with respect to each other and throughout a range of no more than about $\pm 15^\circ$ with respect to the bridge upon application of an external force; and the left and right orbitals are biased to return to a predetermined orientation upon removal of the external force.

COMMENTS

Claims 1 through 33 are now pending in the present application. Applicant respectfully submits that all the pending claims in the above-identified application are in condition for allowance.

The specific changes to the specification and the amended claims are shown on a separate set of pages attached hereto and entitled **VERSION WITH MARKINGS TO SHOW CHANGES MADE**, which follows the signature page of this Amendment. On this set of pages, the insertions are single underlined while the [deletions are bracketed.]

Claim Rejections – 35 U.S.C. § 102

The Examiner rejected Claim 17 as being anticipated by Monroe (U.S. Patent No. 5,786,881). The Examiner asserts that Monroe discloses a nonwire biased eyeglass frame that includes orbitals that are inherently movable throughout a range of no more than about ± 15 degrees. Applicant respectfully traverses this rejection and the Examiner's characterization of the cited reference.

The Examiner rejected Claims 1 through 33 as being anticipated by Wilson (U.S. Patent No. 5,583,583) or Hyoi (U.S. Patent No. 5,182,587). The Examiner asserts that limitations in Claims 1 through 33 are disclosed in Wilson's Figures 1 through 3. The Examiner asserts that Wilson discloses a biased lens eyeglasses. The Examiner asserts that the orbitals being movable throughout a range of no more than about ± 15 degrees is inherent in the Wilson's eyeglass frame. Applicant respectfully traverses this rejection and the Examiner's characterizations of the cited references.

Claim 17

Applicant's amended Claim 17, recites, inter alia, a nonwire biased eyeglass frame which comprises a left orbital and a right orbital for supporting a left lens and a right lens respectively. Each of the left and right orbitals have a first transverse cross sectional area at a first point and a

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second transverse cross sectional area at a second point. A preferentially flexible bridge connects the orbitals. The right and left orbitals are movable with respect to each other and throughout a range of no more than about ± 15 degrees with respect to the bridge upon application of an external force. The left and right orbitals are biased to return to a predetermined orientation with respect to each other upon removal of the external force.

Applicant submits that Monroe (5,786,881) does not teach or suggest a preferentially flexible bridge connected to each orbital. Monroe teaches an eyeglass frame made out of wood. The bridge in Monroe is thick and strong as a result of wood being used to make the eyeglass frame. The strong wooden bridge allows the thinner wooden orbitals to have some flexibility. Applicant submits that the flexibility achieved inherently within Monroe, if any flexibility exists at all, would preferentially cause the orbitals to flex compared to the relatively thicker bridge. Applicant submits that Claim 17 by contrast discloses eyeglasses that are specifically designed to have a flexible bridge rather than flexible orbitals. Further, Applicant submits that bridge flexibility must be designed as opposed to orbital flexibility which can result from naturally occurring flexibility. Applicant therefore submits that the rejection of Claim 17 be withdrawn.

Applicant further submits that Monroe does not realistically disclose orbitals that are movable with respect to each other and with respect to the bridge. Applicant's orbitals can move throughout a range of motion of no more than about ± 15 degrees with respect to the bridge, and each orbital must be movable with respect to the other orbital. Monroe discloses movable ear steams rather than movable orbitals. Applicant submits that an eyeglass frame having movable ear steams cannot necessarily be classified as having movable orbitals. Further, Applicant submits that the eyeglass frame disclosed in Monroe cannot be classified as a biased dual lens eyeglasses frame of the type claimed herein. Rather the orbitals in Monroe appear to take on the natural linear alignment of the wooden frame. Applicant therefore submits that the rejection of Claim 17 be withdrawn.

Claims 1 – 33

Applicant's amended Claim 1, recites, inter alia, a biased dual lens eyeglasses which comprises first and second nonwire metal orbitals. Each orbital has a medial zone and a lateral zone. A bridge is connected to the medial zone on each orbital. Each orbital is movable with

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respect to the other and throughout a range of motion of no more than about ± 15 degrees with respect to the bridge.

Applicant submits that Wilson (5,583,583) does not teach or suggest a preferentially flexible bridge connected to each orbital. Applicant submits that Wilson (5,583,583) is directed towards a method of making metal framed sunglasses with the use of tension mounting. Figures 1 through 3 disclose a nose piece mounted on the bridge, but do not disclose any flexibility within the bridge, which would allow the orbitals to be movable with respect to each other. At most Wilson suggests flexibility within the orbitals themselves to allow lenses to be placed in the orbitals. But Wilson does not suggest that the orbitals are flexible with respect to the bridge and with respect to each other. Similarly, Applicant submits that Wilson does not teach or suggest the eyeglass frame of Claim 17 because Wilson does not teach or suggest a bridge connecting the right and left orbitals such that the orbitals are moveable with respect to each other. Applicant therefore submits that the rejection of Claims 1 through 33 be withdrawn.

Applicant asserts that Hyoi (5,182,587) does not teach or suggest the features disclosed in Claim 1 and Claim 17. Hyoi discloses a wire frame having wire orbitals. Further, Hyoi is directed towards an eyeglass frame that does not appear to be biased. Claim 1 is directed towards biased dual eyeglasses having first and second nonwire metal orbitals. Claim 17 is directed towards a nonwire biased eyeglass frame. Applicant therefore submits that the rejection of Claims 1 through 33 be withdrawn.

The Examiner additionally objected to the Declaration under 37 C.F.R. § 1.67(a). According to the Examiner, the post office address of the inventor James H. Jannard is incomplete.

However, the Declaration recites Mr. Jannard's residence as Double Island, Eastsound, WA, 98245, Post Office Box 1389. This was the complete address of the inventor at the time the Declaration was signed, in connection with a parent patent application to the present application. Accordingly, Applicant respectfully requests that the objection to the Declaration be withdrawn.

CONCLUSION

In view of the foregoing amendments and remarks, Applicant submits that this application, as amended, is in condition for allowance and such action is respectfully requested. The undersigned has made a good faith effort to respond to all the rejections in the case and to

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place the claims in condition for immediate allowance. If any issues remain or require further clarification the Examiner is respectfully requested to call Applicants' counsel at the number indicated below in order to resolve such issues promptly.

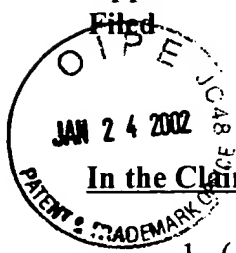
Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: Oct. 25, 2001

By: Gerard von Hoffmann
Gerard von Hoffmann
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Attorney of Record
620 Newport Center Drive
Sixteenth Floor
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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the Claims:

1. (Amended) Biased dual lens eyeglasses, comprising:
 - first and second nonwire metal orbitals, each orbital having a medial zone and a lateral zone; and
 - a bridge connected to the medial zone on each orbital;
 - wherein the first orbital is moveable with respect to the second orbital, [each orbital is movable] throughout a range of motion of no more than about ± 15 degrees with respect to the bridge.
17. (Amended) A nonwire biased eyeglass frame, comprising:
 - a left orbital and a right orbital for supporting a left lens and a right lens, respectively, each of the left and right orbitals having a first transverse cross sectional area at a first point and a second transverse cross sectional area at a second point;
 - a bridge connecting the right and left orbitals;
 - wherein the right and left orbitals are movable with respect to each other and throughout a range of no more than about $\pm 15^\circ$ with respect to the bridge upon application of an external force; and the left and right orbitals are biased to return to a predetermined orientation upon removal of the external force.

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